

1 Michael J. McCue
2 Nevada Bar No. 6055
MMcCue@LRRC.com
3 Jonathan W. Fountain
Nevada Bar No. 10351
JFountain@LRRC.com
4 Meng Zhong
Nevada Bar No. 12145
MZhong@LRRC.com
5 LEWIS ROCA ROTHGERBER CHRISTIE LLP
6 3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
7 702.949.8200 (tel.)
702.949.8398 (fax)

8 *Attorneys for Plaintiffs*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 GBM – SEASON 2, LLC, a Nevada
13 limited liability company; BATTLE OF
THE STRANDS INC., a Nevada
14 corporation; BEAUTY FITNESS AND
FASHION TV, INC. a Nevada corporation;
15 and MINA LU,
an individual,

16 Plaintiffs,

17 v.
18 TOTALLY PACKAGED, LLC, a limited
liability company; MUSIC 4 MY SOUL
LLC, a limited liability company; VEDA
L. SMITH, an individual,

19 Defendants.

Case No.: 2:16-cv-00570-RFB-CWH

**PLAINTIFFS' MOTION FOR
EXTENSION OF TIME FOR
SERVICE**

(Second Request)

22 Pursuant to Federal Rules of Civil Procedure 4(m) and 6(b) and District of Nevada
23 Local Rule 6-1, Plaintiff GBM – SEASON 2, LLC; BATTLE OF THE STRANDS INC.;
24 BEAUTY FITNESS AND FASHION TV, INC.; and MINA LU (herein collectively
25 “Plaintiffs”) hereby move the Court for a 62-day extension of time, from September 20,
26 2016 to November 21, 2016 (a 60-day extension would fall on a Saturday), to perform
27 service of the summons and complaint upon Defendants.

1 **LEGAL STANDARDS**

2 **A. Fed. R. Civ. P. 4(m)**

3 Rule 4 of the Federal Rules of Civil Procedure governs service of process in a civil
4 action. *See generally*, Fed. R. Civ. P. 4. Subpart (m) of the rule sets forth the time period
5 during which service must occur. *Id.* It states, in relevant part, the following:

6 Time Limit for Service. If a defendant is not served within 120
7 days after the complaint is filed, the court—on motion or on its
8 own after notice to the plaintiff—must dismiss the action without
9 prejudice against that defendant or order that service be made
within a specified time. But if the plaintiff shows good cause for
the failure, the court must extend the time for service for an
appropriate period.

10 Fed. R. Civ. P. 4(m).

11 **B. Fed. R. Civ. P. 6**

12 Federal Rules of Civil Procedure 6(b)(1) governs requests for the extension of
13 time. The rule states, in pertinent part, as follows:

14 (1) In General. When an act may or must be done within a
15 specified time, the court may, for good cause, extend the time:
16 (A) . . . if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has
expired if the party failed to act because of excusable neglect.

17 Fed. R. Civ. P. 6(b)(1).

18 **C. D. Nev. LR IA 6-1**

19 District of Nevada Local Rule IA 6-1 also governs requests for the extension of
20 time. The rule states, in pertinent part, as follows:

21 (a) A motion or stipulation to extend time must state the reasons
22 for the extension requested and must inform the court of all
23 previous extensions of the subject deadline the court granted.
(Examples: “This is the first stipulation for extension of time to
file motions.” “This is the third motion to extend time to take
discovery.”) A request made after the expiration of the specified
24 period will not be granted unless the movant or attorney
demonstrates that the failure to file the motion before the
deadline expired was the result of excusable neglect.
Immediately below the title of the motion or stipulation there also
25 must be a statement indicating whether it is the first, second,
third, etc., requested extension, i.e.:
26

27 ///
28

1 STIPULATION TO EXTEND TIME TO FILE MOTIONS
2 (First Request)

3 (b) The court may set aside any extension obtained in
4 contravention of this rule.
5 (c) A stipulation or motion seeking to extend the time to file an
6 opposition or reply to a motion, or to extend the time fixed for
7 hearing a
8 motion, must state in its opening paragraph the filing date of the
subject motion or the date of the subject hearing
9 (d) Motions to shorten time will be granted only upon an attorney
or party's declaration describing the circumstances claimed to
constitute good cause to justify shortening of time. The moving
party must advise the courtroom administrator for the assigned
judge that a motion for an order shortening time was filed.

LR IA 6-1.

ARGUMENT

Requests for extension of time made before the applicable deadline has passed
“normally will be granted in the absence of bad faith on the part of the party seeking relief
or prejudice to the adverse party.” 4B Charles Alan Wright *et al.*, *Federal Practice and
Procedure* § 1165 (4th ed. 2015). If the plaintiff’s motion is reasonable and made in good
faith, and there is no prejudice to the defendant; such requests should be granted as a
matter of course. *See, e.g., Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260 (9th
Cir. 2010) (district court abused its discretion in denying a timely extension that was
“reasonable, justified, and would not result in prejudice to any party.”).

Here, by and through a previous order, the deadline for service is September 20
(Docket Number 8) but there is good cause for a second extension of time. Since the last
extension, the parties are continuing to engage in settlement discussions and exchange of
documents towards resolution, and therefore more time is needed. (Youssefeyeh Decl. ¶ 2.)

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an
order extending the time for Plaintiffs to perform service of summons and complaint upon

///

///

///

1 Defendants from September 20, 2016 to November 21, 2016.

2 DATED: September 20, 2016.

3 LEWIS ROCA ROTHGERBER CHRISTIE LLP

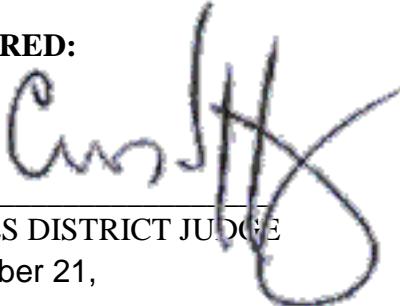
4
5 By: /s/ Meng Zhong
Michael J. McCue
Jonathan W. Fountain
Meng Zhong
3993 Howard Hughes Parkway, Suite 600
6 Las Vegas, NV 89169-5996
7

8 *Attorneys for Plaintiffs*

9

10 **ORDER**

11 **IT IS SO ORDERED:**

12
13
14 
UNITED STATES DISTRICT JUDGE
15 September 21,
DATE: 2016